

REMARKS

In response to the objection in the Final Office Action, claim 4 is amended as hereinabove. Withdrawal of the objection is respectfully requested.

In response to the 112 rejection in the Final Office Action, claim 14 is canceled without prejudice. Withdrawal of the rejection is respectfully requested.

Applicant wishes to thank the examiner for indicating allowable subject matter of claim 6. To expedite the prosecution of the application and without conceding any statements or waiving any arguments in the Final Office Action, claim 6 is canceled without prejudice. The allowable subject matter of that claim is incorporated into independent claim 3, thereby making claim 3 and dependent claim 7 allowable.

Further according to the Office Action, claims 1, 3 – 5, 7 – 11, and 13 – 16 are rejected under 35 USC 102(b) as being anticipated by Kulinets (US Patent 6,005,940). In response, independent claims 1, 9 and 13 are amended to overcome the prior art of record. No new matter has been added.

According to Kulinets, the reader reads a frame and then transmits the frame number to the transponder. Only then the transponder calculates, from the frame number and the secret deciphering key stored on the transponder, the decryption key required for decrypting the encrypted frame content. The transponder transmits this decryption key to the reader, which then can decrypt the encrypted frame content. See, for example, the abstract of Kulinets. In particular, the transponder 2 of Kulinets has a non-volatile memory 8 storing the secret deciphering key DKA, and "the non-volatile memory 8 is configured such that its contents may not be read from the non-volatile memory 8, thereby maintaining secrecy and avoiding an illicit decryption of ODC 1" (Kulinets, col. 3, 11. 56 - 65). It is at the core of Kulinets that the secret deciphering key cannot be read from the record carrier.

Thus, as Applicant's claims rely on the fact that the reading/writing device can access such second part of decryption information, the invention clearly is distinguishable over Kulinets. Note that such readability of the second part of decryption information was already contained in the original device claims 9 - 11, as well as in system claim 12 and method claim 13 (see the feature "reading and/or writing the second part of decryption information (IJCID)". To make the necessity of this feature more explicit for the new record carrier claim 1, the corresponding feature was added as that the "record carrier is designed such that both the first

(HCK) and second (UCID) parts of decryption information, are readable from the record carrier". Thus, the difference between the invention and Kulinets is as follows: in Kulinets the transponder on the record carrier calculates the complete decryption information and then transmits it to the reader, while according to Applicant's claim 1 the reader also reads the second part of decryption information and performs the calculation of the complete decryption information in the reader only.

Thus, summarizing, the basic principle of the invention to improve a record carrier's copy protection safety by distributing the decryption information onto at least two areas of the record carrier is not made obvious neither by the prior art at record nor by the skilled person's general knowledge. While Kulinets proposed distribution of decryption information, Kulinets did not use for the purpose it is claimed in Applicant's claim 1. Thus, employing Kulinets' distribution idea for curing the safety problem of sending complete decryption information over a single channel would contradict the core idea of Kulinets, which proposed to do exactly that, i.e., send the complete decryption information over a single channel to allow full protection of the secret deciphering key being hidden in the transponder. Accordingly, the claimed invention is unobvious over Kulinets alone as well as in combination with the further prior art on record and the skilled person's general knowledge.

According to the binding case law established by U.S. Court of Appeals for the Federal Circuit and its predecessor Court (as interpreted in Section 2131 of the MPEP), to anticipate a claim, the reference must teach each and every element of that claim. As discussed above, Kulinets is deficient in teaching each and every element of Applicant's claim 1. It is, therefore, respectfully submitted that independent claim 1 is not anticipated by Kulinets.

Claims 9 and 13 contain features similar to those in claim 1. Hence, the analysis of independent claims 9 and 13 is similar to claim 1, as presented hereinabove. To avoid repetition, claims 9 and 13 will not be discussed in detail with the understanding that they are patentable at least for the same reasons as claim 1.

Claims 4, 5, 8, 10, 11, 15 and 16 depend from independent claims, which have been shown to be allowable over the prior art reference. Accordingly, claims 4, 5, 8, 10, 11, 15 and 16 are also allowable by virtue of their dependency, as well as the additional subject matter recited therein.

An earnest effort has been made to be fully responsive to the examiner's correspondence and advance the prosecution of this case. In view of the above amendments and remarks, it is believed that the present application is in condition for allowance, and an early notice thereof is earnestly solicited.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

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